

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

MACSHAR ENTERPRISES, LLC,	:	
	:	
Plaintiff,	:	
	:	
v.	:	
	:	Civil Action No.
UNITED STATES POSTAL SERVICE,	:	
CO POSTMASTER DORITA BARNES	:	
3911 CONCORD PIKE	:	
WILMINGTON, DE 19803	:	
	:	
Defendant.	:	

**NOTICE OF REMOVAL BY DEFENDANT UNITED STATES POSTAL SERVICE**

TO: The United States District Court for the District of Delaware:

PLEASE TAKE NOTICE THAT pursuant to Title 28 U.S.C. § 1446(a) and on behalf of the United States Postal Service, Colm F. Connolly, United States Attorney for the District of Delaware and Lesley F. Wolf, Assistant United States Attorney respectfully files this Notice of Removal and in support of such removal states as follows:

1. On or about February 1, 2008, plaintiff Macshar Enterprises, LLC, through counsel, purportedly filed a lawsuit in Justice of the Peace Court of the State of Delaware in and for New Castle County (Court No. 13) against the above-named defendant, alleging *inter alia* defendant is a holdover tenant at 3911 Concord Pike, Wilmington, Delaware. A Copy of plaintiff's state court Complaint is attached as Exhibit A.
2. The United States Postal Service, and agency of the United States, is the named defendant in the above-action.
3. Accordingly, pursuant to 28 U.S.C. § 1442(a)(1) and 39 U.S.C. § 409(a), this

action may be removed to this Court and jurisdiction properly lies in this Court.

5. A copy of this Notice of Removal will be promptly filed in Justice of the Peace Court of the State of Delaware in and for New Castle County and served upon plaintiff's counsel, pursuant to Title 28 U.S.C. § 1446(d). See Exhibit B.

**WHEREFORE**, respectfully, the above-captioned civil action is removed from the Justice of the Peace Court of the State of Delaware in and for New Castle County (Court No. 13), to this Court.

Respectfully submitted,

COLM F. CONNOLLY  
United States Attorney

BY: 

Lesley F. Wolf  
Assistant United States Attorneys  
The Nemours Building  
1007 Orange Street, Suite 700  
P.O. Box 2046  
Wilmington, Delaware 19899-2046  
(302) 573-6277

Dated: February 29, 2008

IN THE JUSTICE OF THE PEACE COURT OF  
THE STATE OF DELAWARE, IN AND FOR NEW CASTLE COUNTY  
COURT NO. 13

COURT ADDRESS:  
1010 CONCORD AVE  
WILMINGTON DE 19802

CIVIL ACTION NO: JP13-08-001241

MACSHAR ENTERPRISES VS UNITED STATES POSTAL SERVIC

SYSTEM ID: @632226  
UNITED STATES POSTAL SERVICE  
CO POSTMASTER DORITA BARNS  
3911 CONCORD PIKE  
WILMINGTON DE 19803

FEB 15 2008

**SUMMONS**  
**(FOR SUMMARY POSSESSION IN LANDLORD/TENANT ACTIONS)**

WE COMMAND YOU to summon UNITED STATES POSTAL SERVICE to appear at the Justice of the Peace Court named above MARCH 4, 2008 at 08:30 AM to present evidence and give testimony regarding the claims stated in the attached Complaint.

IT IS SO ORDERED this 13th day of February, 2008.

Susan G (SEAL)  
Justice of the Peace/Court Official

TO THE DEFENDANT(S):

Failure to appear at the time and place specified may result in a default judgment against you and prevent you from later raising a related claim or defense in another case. If you are a Defendant in a Landlord/Tenant case involving possession, you have the right to a trial by jury. To exercise this right you must notify the court named above in writing within ten (10) days after receiving this summons.

CONSTABLE NOTES: \_\_\_\_\_  
SERVED ON: \_\_\_\_\_ (Date & Time)  
CONSTABLE: \_\_\_\_\_

Persons with disabilities should contact the Court 10 days prior to trial, if possible, to request reasonable accommodations. TDD telephone numbers of JP Courts for the hearing impaired can be obtained from the blue pages of your phone book (listed as "TT" under each court).

**IN THE JUSTICE OF THE PEACE COURT OF  
THE STATE OF DELAWARE, IN AND FOR NEW CASTLE COUNTY  
COURT NO. 13**

**COURT ADDRESS:  
1010 CONCORD AVE  
WILMINGTON DE 19802**

**CIVIL ACTION NO: JP13-08-001241**

**MACSHAR ENTERPRISES LLC, PLAINTIFF**

**----- VS -----**

**UNITED STATES POSTAL SERVICE, DEFENDANT**

**Plaintiff Parties:**

**PLAINTIFF  
SYSTEM ID: @632224  
MACSHAR ENTERPRISES LLC  
CO DONALD L GOUGE JR  
800 N KING ST NO 303  
WILMINGTON, DE 19801**

**ATTORNEY FOR PLAINTIFF  
SYSTEM ID: 002234  
DONALD L GOUGE JR.  
800 KING STREET, SUITE 303  
P.O. BOX 1674  
WILMINGTON, DE 19801**

**Defendant Parties:**

**DEFENDANT  
SYSTEM ID: @632226  
UNITED STATES POSTAL SERVICE  
CO POSTMASTER DORITA BARNES  
3911 CONCORD PIKE  
WILMINGTON, DE 19803**

**DEFENDANT  
SYSTEM ID: @632226  
UNITED STATES POSTAL SERVICE  
3204 CONCORD PIKE  
WILMINGTON, DE 19803**

**Other Case Parties:**

IN THE JUSTICE OF THE PEACE COURT OF  
THE STATE OF DELAWARE, IN AND FOR New Castle COUNTY  
COURT NO. 13

## COURT ADDRESS

1010 Concord Avenue  
Wilmington, DE 19802

## CIVIL ACTION NO. \_\_\_\_\_

## PLAINTIFF (S)

1) Name MACSHAR ENTERPRISES, LLC  
Address C/O DONALD L. GOUGE, JR. (#2234)  
800 N. KING STREET, #303  
Phone WILMINGTON, DE 19801  
2) Name (302) 658-1800x2  
Address \_\_\_\_\_

Phone \_\_\_\_\_

Plaintiff's Attorney, if any:  
DONALD L. GOUGE, JR. (#2234)

Check One ☐ Individual ☒ Corporation or other  
Artificial entity (see Supreme Court Rule 57)

Type of Service: Court Service ☒  
(Check One) Special Process Server \_\_\_\_\_

VS.

## DEFENDANT (S)

1) Name UNITED STATES POSTAL SERVICE  
Address 3911 Concord Pike  
Wilmington, DE 19803  
Phone c/o Postmaster Dorita Barnes  
2) Name \_\_\_\_\_  
Address \_\_\_\_\_

Phone \_\_\_\_\_

Defendant's Attorney, if any: \_\_\_\_\_

Check One ☐ Individual ☒ Corporation or other  
Artificial entity (see Supreme Court Rule 57)

Rental Unit Address:  
3204 Concord Pike  
Wilmington, DE 19803

Type of Action: Debt \_\_\_\_\_ Trespass \_\_\_\_\_ Replevin \_\_\_\_\_ Summary Possession (Landlord/Tenant) ☒  
Deficiency Judgment (6 Del. C. § 9-504) \_\_\_\_\_

## COMPLAINT

## 1. Concise Statement of Facts: (Who, What, When, Where, How?)

The plaintiff landlord rented this commercial property to defendant tenant for use as a postal facility. The lease expired on January 31, 2008. The tenant remains in possession as a holdover tenant, subject to double the per diem rent. Plaintiff landlord seeks possession of the premises. Any rent due will be sought from the Court of Common Pleas, as it will exceed the jurisdictional limit of this Court. Notices to landlord are attached.

IN TRESPASS ACTIONS: The injury caused by the trespass must be described by Plaintiff in the statement of facts:

## 2. Relief Sought:

\$ \_\_\_\_\_ Amount of money claimed. (Not including interest)  
\$ YES Pre Judgment Interest at \_\_\_\_\_ YES % legal rate or \_\_\_\_\_ % contractual rate beginning \_\_\_\_\_ (date).  
\$ YES Post Judgment Interest at the legal rate OR contractual rate of \_\_\_\_\_ %  
\$ 40.00 Court Costs.  
\$ YES Other Attorney's Fees \_\_\_\_\_  
YES Possession \_\_\_\_\_ Jury Trial Demanded (Possession Only): \_\_\_\_\_ Yes \_\_\_\_\_ No  
Return of personal property or \$ \_\_\_\_\_ total value (Attach list of property  
stating description, number and value of items on 8 1/4" x 11" paper)

## TO: THE COURT OF THE JUSTICES OF THE PEACE

Please docket the above-captioned case and issue a Summons to the above-named Defendant(s) to appear before you so there may be a trial on this case and judgment for the Plaintiff(s), together with interest and costs of this proceeding; or, for an Attachment in Lieu of Summons, please issue same and direct the Constable to execute the proper process. I acknowledge, that unless a jury trial is demanded for summary possession (Landlord Tenant cases), I waive trial by jury of the claims in this complaint.

February 1, 2008

Date

Donald L. Gouge, Jr. #2234  
Plaintiff or Plaintiff's Attorney

HEIMAN, GOUGE & KAUFMAN, LLP  
ATTORNEYS AT LAW  
800 KING STREET, SUITE 303  
P.O. BOX 1674  
WILMINGTON, DELAWARE 19899-1674

HENRY A. HEIMAN\*  
DONALD L. GOUGE, JR.  
SUSAN E. KAUFMAN\*\*

TELEPHONE: 302-658-1800  
FAX: 302-658-1473

\*ALSO ADMITTED IN NEW YORK  
\*\*ALSO ADMITTED IN PENNSYLVANIA

January 4, 2008

United States Postal Service  
P.O. Box 27497  
Greensboro, NC 27498-1103  
Attention: Geoffrey Gregg

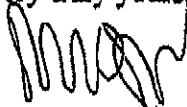
RE: Talleyville Branch (096820-008)  
Lease 3204 Concord Pike, Wilmington, DE 19803

Dear Mr. Gregg:

If you will recall from my correspondence dated November 30, 2007, I am the attorney for Macshar Enterprises, LLC, your landlord (copy attached).

As you know, your current lease expires on January 31, 2008. Since I have not heard from you, I expect that you will vacate the above noted premises by the close of business on January 31, 2008. If you remain, I will be forced to obtain legal possession of the premises and double the per diem rent. Let me know if you have any questions.

Very truly yours,



DONALD L. GOUGE, JR.

C: Macshar Enterprises, LLC

*cert mailing*

*Marion*

RODNEY SQUARE STATION  
WILMINGTON, Delaware  
198019998  
3379300501 -0096  
(800)275-8777 11:43:11 AM  
01/04/2008

Product Description	Sales Receipt Qty	Unit Price	Final Price
GREENSBORO NC 27498 Zone-4 First-Class Letter 0.50 oz.			\$0.41

Issue PVI:			
Certificate of Mailing MIDDLETOWN DE 19709 Zone-1 First-Class Large Env 3.00 oz.	1	\$1.05	\$1.05
			\$1.14

Issue PVI:			
Certificate of Mailing	1	\$1.05	\$1.05
Total:			\$3.65

Paid by: \$5.00  
Cash -\$1.35  
Change Due:

Order stamps at USPS.com/shop or call  
1-800-Stamp24. Go to USPS.com/clicknship  
to print shipping labels with postage.  
For other information call 1-800-ASK-USPS.

Bill#: 1000400969316  
Clerk: 04

All sales final on stamps and postage.  
Refunds for guaranteed services only.  
Thank you for your business.

\*\*\*\*\*  
HELP US SERVE YOU BETTER  
\*\*\*\*\*

Go to: <http://gx.gallup.com/pos>

TELL US ABOUT YOUR RECENT  
POSTAL EXPERIENCE

YOUR OPINION COUNTS

\*\*\*\*\*  
\*\*\*\*\*

Customer Copy

U.S. POSTAL SERVICE **CERTIFICATE OF MAILING**  
MAY BE USED FOR DOMESTIC AND INTERNATIONAL MAIL, DOES NOT  
PROVIDE FOR INSURANCE--POSTMASTER

Received From:

HEIMAN, GOUGE & KAUFMAN  
ATTORNEYS AT LAW  
800 KING STREET, SUITE 403  
P.O. BOX 1674  
WILMINGTON, DELAWARE 19899-1674

One piece of ordinary mail addressed to:

USPS - Rodney Square Station  
Greensboro, NC  
27498

WV - Geoffrey, Gregg  
8 Form 3817, Mar. 1989



U.S. POSTAGE  
PAID  
WILMINGTON, DE  
JAN 04 2008  
19801

HEIMAN, GOUGE & KAUFMAN, LLP  
ATTORNEYS AT LAW  
800 KING STREET, SUITE 303  
P.O. BOX 1674  
WILMINGTON, DELAWARE 19899-1674

*Conway*

TELEPHONE: 302-658-1800  
FAX: 302-658-1473

HENRY A. HEIMAN\*  
DONALD L. GOUGE, JR.  
SUEAN E. KAUFMAN\*\*

\*ALSO ADMITTED IN NEW YORK  
\*\*ALSO ADMITTED IN PENNSYLVANIA

November 30, 2007

United States Postal Service  
P.O. Box 27497  
Greensboro, NC 27498-1103  
Attention: Geoffrey Gregg

RE: Talleyville Branch (096820-008)  
Lease 3204 Concord Pike, Wilmington, DE 19803

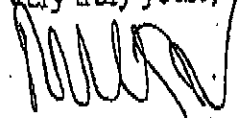
Dear Mr. Gregg:

I am the attorney for Macshar Enterprises, LLC, your landlord.

Your current lease expires on January 31, 2008. Pursuant to your lease, there are NO renewal options. As such, the USPS must vacate the premises by January 31, 2008. If you remain beyond January 31, 2008, the USPS will be considered a holdover tenant and subject to double the per diem rent as permitted by the Delaware Landlord Tenant Code.

I have enclosed an offer for a new lease by your landlord, dated November 5, 2007. This offer will remain open until 11:59 p.m. on December 15, 2007. Please feel free to contact me or my client directly.

Very truly yours,



DONALD L. GOUGE, JR.

Enclosure

C. Macshar Enterprises, LLC



*MAEhan*

RODNEY SQUARE STATION  
WILMINGTON, Delaware  
198019998  
3379300801 -0093  
(800)275-8777

11/30/2007 11:29:21 AM

Product Description	Sales Receipt		Final Price
	Sale Qty	Unit Price	

EAST ORANGE NJ 07017			\$0.75
Zone-2 First-Class			
Letter			
2.90 oz.			
Nonmach First-Class			\$0.17
Return Rpt (Green Card)			\$2.15
Registered			\$9.50
Insured Value :		\$0.00	
Article Value :		\$0.00	
Label #:	RA906756101US		
Customer Postage			-\$13.05
Subtotal:			\$0.00
GREENSBORO NC 27498			\$0.41
Zone-4 First-Class			
Letter			
0.70 oz.			

Issue PVI:			\$0.41
Certificate of Mailing	1	\$1.05	\$1.05
Total:			\$1.46

Paid by:  
Cash \$2.00  
Change Due: -\$0.54

Order stamps at USPS.com/shop or call 1-800-Stamp24. Go to USPS.com/clicknship to print shipping labels with postage. For other information call 1-800-ASK-USPS.

Bill#: 1000702531038  
Clerk: 21

All sales final on stamps and postage.  
Refunds for guaranteed services only.  
Thank you for your business.

HELP US SERVE YOU BETTER

Go to: <http://gx.gallup.com/pos>

TELL US ABOUT YOUR RECENT POSTAL EXPERIENCE

YOUR OPINION COUNTS

Customer Copy

U.S. POSTAL SERVICE CERTIFICATE OF MAILING

MAY BE USED FOR DOMESTIC AND INTERNATIONAL MAIL, DOES NOT PROVIDE FOR INSURANCE-POSTMASTER

Recs HEIMAN, GOUGE & KAUFMAN  
ATTORNEYS AT LAW  
800 KING STREET, SUITE 303  
P.O. BOX 167  
WILMINGTON, DELAWARE 19801

One piece of ordinary mail addressed to:  
USPS  
PO Box 27497  
Greensboro NC 27498

0000

00047866-21

U.S. POSTAGE  
PAID  
WILMINGTON, DE  
NOV 30, 07  
FBI/DOJ

PS Form 3817, January 2001

**JUSTICE OF THE PEACE COURT OF THE STATE OF  
DELAWARE IN AND FOR NEW CASTLE COUNTY**

MACSHAR ENTERPRISES, LLC,

Plaintiff,

v.

UNITED STATES POSTAL SERVICE,  
CO POSTMASTER DORITA BARNES  
3911 CONCORD PIKE  
WILMINGTON, DE 19803

Defendant.

Civil Action No. JP13-08-001241

**NOTICE OF FILING OF NOTICE OF REMOVAL**

Please take notice that on February 29, 2008, Defendant, United States Postal Service, in the above-titled action, by and through undersigned counsel, Lesley F. Wolf, Assistant United States Attorney for the District of Delaware, filed in the office of the Clerk of the United States District Court for the District of Delaware at Wilmington, Delaware, a Notice of Removal and a copy of this Notice of Filing of Notice of Removal of the above-titled action to the said United States District Court. A copy of the Notice of Removal is attached hereto and is being filed with the Court of Common Pleas of the State of Delaware in and for New Castle County which filing effects the Removal.

Accordingly, pursuant to 28 U.S.C. §§ 1442(a) and §1446(d), the above-titled action may proceed no further in state court unless and until the case is remanded.

Respectfully submitted,

COLM F. CONNOLLY  
United States Attorney

BY: 

Lesley F. Wolf  
Assistant United States Attorneys  
The Nemours Building  
1007 Orange Street, Suite 700  
P.O. Box 2046  
Wilmington, Delaware 19899-2046  
(302) 573-6277

Dated: February 29, 2008

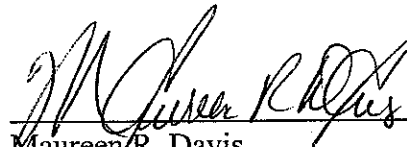
**CERTIFICATE OF SERVICE**

I, **MAUREEN R. DAVIS**, an employee in the Office of the United States Attorney for the District of Delaware, hereby attest under penalty of perjury that on **February 29, 2008**, I served the foregoing:

**NOTICE OF REMOVAL**

by delivering a copy of said documents via First Class United States Mail, postage prepaid to counsel at the following address:

**Donald L. Gouge, Jr., Esquire**  
800 King Street, Suite 303  
P. O. Box 1674  
Wilmington, DE 19801  
(302) 652-3611

  
Maureen R. Davis  
Legal Assistant